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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Implementing Senate Bill 846 Concerning
Potential Extension of Diablo Canyon
Power Plant Operations

Rulemaking R.23-01-007

**BRIEF OF THE GREEN POWER INSTITUTE
ON THE PHASE 1: TRACK 2 ISSUES**

September 18, 2023

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BRIEF OF THE GREEN POWER INSTITUTE ON THE PHASE 1: TRACK 2 ISSUES

Pursuant to the August 14, 2023, *Email Ruling Granting Motions to Hold Phase 1: Track 2 Evidentiary Hearings and/or Submit Briefs, and Providing Further Instruction*, as modified by the September 13, 2023, *Email Ruling Partially Granting Request to Extend Deadlines in Phase 1: Track 2 of this Proceeding*, in the **Order Instituting Rulemaking to Consider Potential Extension of Diablo Canyon Power Plant Operations in Accordance with Senate Bill 846**, the Green Power Institute (GPI), the renewable energy program of the Pacific Institute for Studies in Development, Environment, and Security, provides this *Brief of the Green Power Institute on the Phase 1: Track 2 Issues*.

Summary

The Phase 1: Track 2 issues in R.23-01-007, the proceeding to determine whether to extend operations at the Diablo Canyon Power Plant (DCPP) until 2029/2030, are mainly focused on addressing the provisions in Sections 712.8(c)(2)(B) – 712.8(c)(2)(D) of the California Public Utilities Code, code sections that were added to statute by SB 846.

These code sections address three major issues:

1. Whether the cost of extending operations at DCPP is reasonable, or “too high to justify.”
2. Whether there are sufficient new clean energy resources available that would provide a comparable level of reliability as extending operations at DCPP would.
3. What amount of time and resources would be needed in completing an orderly shutdown of DCPP if and when the Commission concludes that DCPP is no longer needed to ensure system reliability.

In addition to addressing the above three issues, Phase 1: Track 2 of this proceeding also addresses issues of cost and attribute allocation for the output of DCPP during extended operations. In accordance with the April 6, 2023, *Assigned Commissioner’s Scoping*

Memo and Ruling, cost and attribute allocation proposals were the subject of Testimonies filed by the Parties on June 9, 2023. In accordance with the April 20, 2023, Ruling in this proceeding, the three statutory issues enumerated above were the subject of Testimonies filed by the Parties on June 30, 2023, and Reply Testimonies filed on July 28, 2023. GPI filed Testimonies on each of these three occasions. By Ruling on August 30, 2023, the three GPI Testimonies were entered into the record of this proceeding. We continue to stand behind those Testimonies.

Our Phase 1: Task 2 Brief herein addresses three Phase 1: Track 2 topics: (1) Cost Justification for the Extension of DCP; (2) Sufficiency of Clean Energy Resources to Replace DCP; and (3) Allocation of DCP Costs and Attributes. We summarize our positions below:

- Based on currently available information, no major capital expenses needed to enable safe extended operations have been identified to date, rendering application of the “too high to justify” test moot for the time being.
- Based on currently available information, sufficient new clean energy resources should not be judged to be available to short circuit the reliability need to approve extended operations at DCP.
- The reliability and environmental attributes of DCP’s output should continue to be available for use in the marketplace as long as DCP is in operation, although in practice at the current time there are no usable environmental attributes produced by DCP.
- The reliability and environmental attributes of DCP’s output during extended operations should be allocated in exact accordance with an entity’s contribution to the recoverable costs of operations.

Cost Justification for the Extension of DCP

A major issue for Phase 1: Track 2 of this proceeding is the determination of whether extension of the operations of DCP entails costs that are “too high to justify.” This issue originates specifically from PUC §712.8(c)(2)(B), which reads:

The commission shall review the reports and recommendations of the Independent Safety Committee for Diablo Canyon described in Section 712.1. If the Independent Safety Committee for Diablo Canyon’s reports or recommendations cause the commission to determine, in its discretion, that the costs of any upgrades necessary to address seismic safety or issues of deferred maintenance that may have arisen due to the expectation of the plant closing sooner are too high to justify incurring, or if the United States Nuclear Regulatory Commission’s conditions of license renewal require expenditures that are too high to justify incurring, the commission may issue an order that reestablishes the current expiration dates as the retirement date, or that establishes new retirement dates that are earlier than provided in subparagraph (A) of paragraph (1), to the extent allowable under federal law, and shall provide sufficient time for orderly shutdown and authorize recovery of any outstanding uncollected costs and fees.

A restrictive reading of the statute limits the “too high to justify” test to costs in three categories of capital improvements: the cost of performing long-term maintenance that was deferred in anticipation of shutting down DCP in 2024/2025; the cost of seismic upgrades needing to be performed in order to safely extend the operations of DCP beyond the period of their original operating licenses; and the cost of any other upgrades or actions that might be ordered by the NRC or any other relevant agency as a condition of operating license renewal. SB 846 specified that all three of these categories of costs are to be funded by public funds rather than by ratepayers, and this section of the statute allows for an off-ramp from extending DCP operations in the event that these costs are untenable – or in the language of the statute, “too high to justify.” In the opinion of GPI, based on the plain language of the statute, the “too high to justify” test, as prescribed in PUC §712.8(c)(2)(B), is to be applied specifically to costs in the three specified categories of capital expenditures.

The first question related to this issue that is posed in the April 20, 2023, Ruling, asks: “How should ‘too high to justify’ be defined and evaluated in the context of this section

(April 20 Ruling, pg. 4)?” Focusing specifically on the capital cost items that are specified in the statute, GPI asserts that there are two different approaches that can be taken to address this question – the “too high to justify” standard can be applied on either an absolute or a relative basis. Applying it on an absolute basis would entail setting a ceiling on the aggregate capital costs that would be tolerable in extending DCP operations. Applying it on a relative basis would entail determining what the effect of a given level of capital investment would be for the overall cost of energy production at DCP, and how that cost compares with the costs of clean-energy alternatives available to the grid.

GPI believes that the “too high to justify” standard should be based on a relative evaluation, relative to the cost of reliable clean energy alternatives available in the marketplace. This evaluation can be accomplished by determining how much any required capital improvements would add to the recoverable cost of energy production from five-years of extended operations at DCPs, if such costs were to be compensated from ratepayers (in fact these costs are supposed to be compensated from public funds). In our June 9, 2023, Testimony, we proposed that if the needed capital costs for the extension add more than ten percent to the total cost of energy production at DCP, then the costs should be subject to serious scrutiny relative to costs of clean-energy alternatives available to the grid. We stand behind that proposal.

Many of the Testimonies that have been admitted into evidence in this case address the issue of “too high to justify” as it applies to the overall cost of energy production at DCP. Even if the “too high to justify” test is only applied to the specified categories of capital cost as described explicitly in the statute, it still leads to a judgment based on the total cost of energy if GPI’s approach is adopted, and the collective capital cost of actions covered by PUC §712.8(c)(2)(B) cause the overall cost of energy production at DCP to increase by more than ten percent from the current cost. We note that the fact that the legislature passed, and the governor signed SB 846 demonstrates that the current cost of operations of the facility are considered per se reasonable.

Because DCPD is located close to a known seismic fault it has been studied extensively over the years for earthquake resiliency and safety, and various upgrades have been recommended and installed. The last major comprehensive seismic safety study was conducted in 2015, following the Fukushima disaster in Japan. Pursuant to SB 846, PG&E is currently supporting an independent expert study to determine whether any new information has been uncovered with respect to seismic safety at DCPD since the 2015 study. This is not to say that everything about the seismic potential at the site is fully understood, or that there is nothing more that can be done to improve the seismic safety of DCPD. What it does say is that there is little reason to expect any major surprises to emerge from the current independent safety study or the NRC re-licensing process at this point in time, in the absence of evidence to the contrary. Unfortunately, the results of the current study will not be available until quite late in the calendar year, when a Decision about whether to go forward with extended operations has to be made.

If there is an unexpected finding of greater seismic potential than is currently assumed that comes in at the last moment, it will be difficult in the extreme to properly analyze the implications in the timeframe laid out in SB 846. In that event, in our opinion the Commission should be prepared to seek immediate guidance from the legislature.

In his Testimony, SLOMFP's Witness Dr. Bird argues that his work suggests that the seismic risk at DCPD is considerably greater than commonly believed. His conclusions about the seismic risk at DCPD, while continuously in refinement, have been available for over a decade. His findings were shared with the 2015 seismic study team, but they were not accepted in the final report. We note that we are not aware of any other members of the seismic community who endorse Dr. Bird's results. We recognize that Dr. Bird is an established expert in his field, and his conclusions about the seismicity around DCPD should be duly considered by the expert panel currently studying the seismicity around DCPD, and in turn by the DCISC. GPI is willing to let these expert review panels determine whether Dr. Bird's results are sufficiently compelling to warrant a re-thinking about the seismic potential at DCPD.

In their Testimonies, several Parties suggest that despite what PG&E and the DCISC have been saying to-date about the lack of an identified need for major capital improvements at DCPD in order to allow safe extended operations, there are reasons to believe that some expensive items will indeed be identified in the current review processes being conducted in accordance with SB 846. As above, we defer judgment on these issues to the agencies identified in the legislation as responsible for their determination.

PUC §712.8(c)(2)(B) places a good deal of responsibility for confirming the need for capital expenditures needed for the safe extension of operations at DCPD in the areas of seismic upgrades and deferred maintenance in the hands of the Diablo Canyon Independent Safety Committee (DCISC). In reports issued to date, the DCISC states that it does not anticipate that any major capital improvements will need to be undertaken in order to safely extend the operations of DCPD for five years, consistent with SB 846. Similarly, PG&E witness Ketelsen in cross examination attested that PG&E does not anticipate that there will be any major expenses needed for seismic upgrades, deferred maintenance, or for compliance with NRC license extension orders. If these sources are correct, then applying the “too high to justify” standard will become a moot point.

Preliminary information suggests that the need for major capital expenses to allow operations at DCPD to be extended for five years will be minimal. However, the final word on what might be needed is not yet in, and likely will not be available in time to be fully analyzed by the end of the current calendar year, should unexpected substantial expenditures in fact be identified. It is in anticipation of this possibility that a sufficient level of effort needs to be pursued now on developing an approach to making a “too high to justify” determination, in order to be prepared if such a determination needs to be made in an uncomfortably short timeframe.

Sufficiency of Clean Energy Resources to Replace DCPD

When the 2016 Application was filed at this Commission to suspend efforts to relicense DCPD and instead retire the power plant at the expiration of its original operating license, one of the key stipulations in the Application was that the facility’s retirement should be

accomplished without causing any increase in systemwide greenhouse-gas emissions. In fact, modeling studies conducted over the past several years for the Commission’s IRP proceeding, R.20-05-003, have consistently shown that retiring Diablo Canyon in 2024/2025 will lead to a not insignificant increase in systemwide greenhouse-gas emissions as a direct result of its retirement. Indeed, this consistent finding is one of the factors that motivated the passage of SB 846.

SB 846 adopts the same principle with respect to greenhouse-gas emissions in considering whether to close DCPD in 2024/2025 as was offered in the 2016 Application. In the case of SB 846, the legislation provides, in effect, that if and when DCPD can be shut down *without* causing a bump in overall greenhouse-gas emissions, it should be shut down. If shutting DCPD down in 2024/2025 cannot be done without an increase in greenhouse-gas emissions, then the operations at DCPD should be extended by up to five years, or fewer if it can be shuttered without exacerbating greenhouse-gas emissions before the five-year extension has passed.

California PUC §712.8(c)(2)(D) states:

If the commission determines that new renewable energy and zero-carbon resources that are adequate to substitute for the Diablo Canyon powerplant and that meet the state’s planning standards for energy reliability have already been constructed and interconnected by the time of its decision, the commission may issue an order that reestablishes the current expiration dates as the retirement date, or that establishes new retirement dates that are earlier than provided in subparagraph (A) of paragraph (1), and shall provide sufficient time for orderly shutdown and authorize recovery of any outstanding uncollected costs and fees.

This code section specifies that a determination must be made as to whether sufficient *new* clean resources are available to substitute for DCPD and obviate the need for extended operations. In order to focus on new resources, a baseline of existing resources needs to be defined. As noted above, the IRP proceedings at this Commission, R.16-02-007 and R.20-05-003, have issued three midterm reliability procurement orders since 2019 (D.19-11-016, D.21-06-035, and D.23-02-040). The 2019 Order established a baseline from which to determine whether a given project proposal qualified as new

capacity. The 2021 and 2023 procurement Orders both made adjustments to the baseline established in the 2019 Decision.

The April 20, 2023, Ruling, in this proceeding proposes using the baseline from the 2019 procurement Order as the baseline for determinations of what counts as new capacity in this proceeding. PG&E's Testimony proposes using the adjusted baseline from the 2021 procurement Order as the baseline for this proceeding, largely on the basis that the 2021 Order includes an explicit allocation for replacement capacity for DCPD. Under GPI cross examination, PG&E witness Kikuyama confirmed that PG&E continues to favor using the 2021 baseline, based primarily on the fact that the 2021 procurement order includes a specific allocation for replacement capacity for DCPD. In our Testimony, the GPI argues for using the most recent adjustment of the IRP baseline, as articulated in D.23-02-040, because this is the baseline currently in use in the IRP proceeding. We continue to favor using the 2023 adjusted baseline in this proceeding, as that is the baseline that is currently in use in the IRP proceeding.

The IRP proceeding has adopted the 2023-adjusted baseline for their operations going forward. The essential rationale for our position that the current IRP baseline should be adopted for this proceeding is to ensure that the two proceedings are operating in concert. Particularly in view of the facts that the DCPD replacement capacity allocation in the 2021 procurement Order is in serious jeopardy of not being fulfilled (see discussion below), and that the baseline adjustment made in the 2023 to the adjusted baseline from the 2021 order was modest, we continue to believe that the proper course of action is to adopt the IRP baseline that is currently in use in the IRP proceeding, the 2023 adjusted baseline from D.23-02-040.

Question 2 c. in the April 20, 2023, Ruling, asks parties to comment on what conclusions can be drawn from CEC reports appended to the Ruling (Attachments D and E) and other sources regarding whether there are adequate new renewable energy and zero-carbon resources to substitute for DCPD at the end of its current operating license. Based on our reading of the evidence the answer is clear – shutting DCPD down in 2024/2025 will lead to an increase in greenhouse-gas emissions, the inverse of which is that sufficient new

renewable energy and zero-carbon resources to substitute for DCPD are not going to be available as of 2024/2025, and it is fairly unlikely that sufficient qualified resources will become available before the end of the five-year period of extended operations as authorized in SB 846.

The 2021 procurement order in the IRP, which was passed before the introduction of SB 846, included an allocation of new clean energy capacity due to be online in 2024-2025 that would substitute for the greenhouse-gas free energy and capacity that was being retired at DCPD. In fact, many LSEs recently reported in their RPS procurement reports that many of the projects that they have contracted with for the nearest-term (online before the end of 2024) allocation included in the D.21-06-035 procurement order are behind schedule and unlikely to become operational on time as specified in their contracts. One of the unfortunate results of these delays is that the following years' allocations of new clean capacity will also be pushed back. This has been highlighted recently with the issuance of a joint petition for modification of D.21-06-035 by SCE and PG&E, proposing to push the due date for DCPD replacement capacity back by two years to 2026/2027, which is two years beyond the expiration of the facility's current operating licenses.

We note that the IOUs are designated as the backstop procurement agencies for other LSEs, mainly CCAs and ESPs, for purposes of procurement of DCPD replacement capacity. If the two largest IOUs are unable to fulfill their own procurement obligations for DCPD replacement, then they surely will not be able to backstop other LSEs, thus leaving the system without any backstop plan.

The CEC reports that are Attachments D and E to the April 20, 2023, Ruling, assert that California's renewable energy development community is being strained to the limit in efforts to fulfill the procurement requirements in the three recent IRP midterm reliability procurement orders. As long as clean energy resources are being developed at a maximal pace, the loss of a major carbon-free generator like Diablo Canyon will inevitably leave the integrated electric system with less zero-carbon energy than if Diablo Canyon was not retired. In other words, regardless of whether Diablo Canyon can be retired without

causing an increase in carbon dioxide emissions in 2024/2025, the fact is that the total integrated electric system will have greater greenhouse-gas emissions without Diablo Canyon operating than with it operating, as long as other clean energy resources are being developed at maximal rate.

Several parties, in their Testimonies and cross examinations, assert that extending the operations of Diablo Canyon by five years will have the effect of crowding out, or suppressing the development of RPS and other clean energy resources during the period of the extension. As evidence, they point out that there are already RPS generators on the California grid that are being curtailed during periods of high renewable availability and low system demand. In our cross examination of WEM witness Freehling, Mr. Freehling argued that operations of DCPD were indeed crowding out solar development by causing an increasing amount of curtailment at these facilities.

We do not agree that the issue of whether DCPD extended operations might be crowding out RPS project development should be given serious consideration in the determination of whether to extend DCPD operations. In the first place the fact that the California clean energy development sector is operating at maximum capacity belies any concern that extending operations at DCPD will suppress the development of clean energy alternatives. In addition, the unprecedented rate of development of energy storage capacity that is happening now will, by design, soak up much of the energy that is currently being curtailed, exactly what is needed in order for solar to be able to provide reliability to the grid. The retirement of DCPD in 2024/2025 might lead to an immediate decrease in the need for solar curtailment, but at the same time it would have the effect of decreasing the amount of charging energy that will be available in the next several years to charge the growing amount of new storage capacity and provide the reliability that is ultimately needed to substitute for the reliability that is currently provided by DCPD.

Even if retiring Diablo Canyon could be accomplished without causing an increase in greenhouse-gas emissions, it is questionable whether the retirement would be consistent with current California energy and environmental policies, which favor the rapid decarbonization of the California economy. As long as the clean energy development

community is operating at maximum capacity, shutting down DCPD will leave the system with greater greenhouse-gas emissions than continuing its operations.

If the findings discussed above regarding the state of development of new reliable renewable capacity in California are robust, then a case cannot be made at the present time that the Commission should hold DCPD to its currently scheduled retirement in 2024/2025, based on a finding that sufficient new renewable and zero-carbon generating resources can be counted on to meet the state's reliability planning standards and greenhouse-gas emissions goals. On the contrary, closing DCPD in 2024/2025 would cause a decrease in system reliability and an increase in systemwide greenhouse-gas emissions, compared to extending the facility's operations for five years.

Allocation of DCPD Costs and Attributes

The foundational principle underlying SB 846 is the need for the reliability attributes of DCPD on the California grid post the currently scheduled retirement dates of 2024/2025. DCPD is the largest power plant in the state, and provides highly reliable, greenhouse-gas-free baseload power to the grid. Currently DCPD is owned and operated by PG&E, and its energy is used to supply bundled utility load, with surplus sold through the CAISO's wholesale market. SB 846 maintains PG&E's role as owner/operator of DCPD, but spreads the costs of its extended (post 2024/2025) operations across all users of the integrated California grid. Consequently, it falls to the Commission to determine what the reimbursable costs of extended operations are, how they are to be allocated among the jurisdictional LSEs, and how the reliability and environmental attributes of DCPD during extended operations are to be handled.

On May 19, 2023, in accordance with instructions in the April 6, 2023, Scoping Memo and Ruling in this proceeding, PG&E served Testimony describing their estimations about the past, present, and future costs of operations at DCPD. In reply, many of the Parties criticized PG&E for both their selection of what categories of costs should be included in these estimates of reimbursable costs, and what the legitimate costs are in each category that should be included in the tally. Once the categories of recoverable

costs have been identified and agreed upon, the Commission will need to develop a mechanism for monitoring and auditing these costs over the five-year extended operations period for DCP, assuming that extended operations are approved. The development of such an auditing function is probably a Phase 2 issue.

On June 9, 2023, in accordance with the April 20, 2023, Ruling, GPI and other Parties provided proposals for cost and attribute allocation. The GPI proposal focused on determining the allocation of cost responsibility among the state's jurisdictional LSEs, and on the use of and allocation of the reliability and environmental attributes of DCP. We proposed that these attributes should be allocated among all of the LSEs that share in the payment of the recoverable, above-market costs of operations of the facility, exactly in proportion to their contribution to the pool of recoverable charges.

In order to treat the facility as a statewide asset, SB 846 specifies that all of DCP's output will be sold on the open market rather than being treated as the property of the facility's owner and operator, PG&E. The cost of power production will be paid to the extent possible by the sale of the power on the wholesale market, and if that is inadequate to fully cover the cost the remainder of the recoverable funds due to PG&E for operating the facility will come from California ratepayers. This being the case, in order to fairly allocate the benefits of the power produced in extended operations of Diablo Canyon, it will be necessary to determine where the power output is going and who is paying for it.

Because Diablo Canyon operates in baseload (continuous output) mode, it appears that most of the cost of power generation will be compensated by the market, but there will be a residual deficit between the cost of power generation and the revenues generated on the wholesale power market. It is this deficit, which in our judgment is likely to be in the range of 10-20 percent of the total recoverable cost of energy production at DCP, that will be made up by all California ratepayers.

It should be relatively easy to allocate the 10-20 percent or so of the benefits of Diablo Canyon, such as clean energy and reliability credits, to the pool of ratepayers that is tapped to make up the deficit. The legislation specifies that costs should be proportional

to consumption, including behind-the-meter use. It will require careful and reliable tracking on the part of CAISO to determine which LSEs are purchasing wholesale Diablo Canyon power, and to make sure that those entities are allocated their fair share of the benefits as part of their purchases.

The first question in the request for proposals asks for mechanisms related to the tracking and compensation for payments that LSEs are required to make in order to make up whatever deficit remains due to the operator after the sales of the power through the wholesale markets have been credited, the projected 10-20 percent of the costs discussed above. GPI suggests that arrangements for this purpose should be pursued through the tracking efforts at CAISO.

The second question asks: “Whether and how the benefits of extended operations should be allocated among the LSEs and customers paying for extended operations.” As discussed above, the compensation for Diablo Canyon will come in two tranches. The first tranche will consist of the revenues that are generated through wholesale power sales. The second tranche, which will make up any deficit remaining after crediting the revenues, will consist of assessments made to all California customers in proportion to their consumption of power. The vast majority of such customers will be represented by their LSEs.

For the participants in the first tranche, who are the direct purchasers of the wholesale power output of DCP, should be allocated benefits according to the proportion of the cost of power generation that they provide. This can be done by treating the purchasers of the power as a group for which two determinations have to be made. First, what portion of the costs of power generation recoverable by the operator are compensated by the purchasers group (tranche 1). Second, what is the proportional share of each member of the tranche 1 group within the group, based on their dollar contribution to the total group contribution to the recoverable costs of extended operations of DCP. Then, for example, if a given LSE’s purchases of DCP power represent five percent of the total revenues generated by all of the purchasers of the power, and the group’s purchases, which represent the wholesale power sales of the facility, offset 80 percent of the

recoverable operating costs of the facility, then that LSE's fair share of the benefits of the DCP's power output is four percent (80% x 5%) based on its first tranche contribution.

For the second tranche, which consists of all California ratepayers, it is relatively easy to assign benefits in accordance with their proportional contribution to the pool of funds used to offset the deficit. Each tranche 2 member's fair share of Diablo Canyon's benefits will be the product of their proportional share of the tranche 2 pool multiplied by the share of the total recoverable costs of generation that are provided by the tranche 2 group (20 percent in the example in the previous paragraph). We note that entities who are members of the first tranche will in virtually all cases also be members of the second tranche. Thus, their total share of the benefits will be the sum of their tranche 1 and tranche 2 shares.

In their Testimonies several parties, including PG&E, assert that there should be neither use of nor allocation of the reliability and environmental attributes of DCP output during extended operations, based on PUC §454.52(f)(1): "The commission shall not include the energy, capacity, or any attribute from Diablo Canyon Unit 1 beyond November 1, 2024, or Unit 2 beyond August 26, 2025, in the adopted integrated resource plan portfolios, resource stacks, or preferred system plans." During cross examination PG&E witness Kikuyama asserted that PUC §454.52(f)(1) is not the only source for their position on not allocating attributes from DCP, but he was unable to identify any other source. This code section refers specifically to the modeling that is performed as part of the regular two-year IRP planning cycle, which culminates with the determination of a Preferred System Plan. It does not explicitly extend beyond the IRP.

We note that the reliability value of DCP is a key attribute of its power output. During cross examination PG&E witness Kikuyama testified that the RA attributes of DCP are indeed valuable. There is no reason why the customers of the LSEs that pay for DCP's above market costs of operations should not receive full value for their purchase. We continue to stand behind our proposal to distribute the reliability attributes of DCP in accordance with an LSE's proportional contribution to its recoverable cost.

In our view as analysts, we do not see anything in PUC §454.52(f)(1) that suggests that the reliability and environmental attributes of DCPD cannot be used in the real-time RA marketplace. It just prohibits including those attributes in the IRP planning process post 2024/2025. Indeed, withholding the reliability attributes of DCPD from the marketplace while the facility is operating post 2024/2025 would cause a significant dislocation in the RA market, in effect reducing the need for contractual RA capacity post 2024/2025 by 2,400 MW, because that amount of reliable capacity would be operating on the grid without RA contractual surety.

Looking at it another way, at the point of transition to extended operations, if DCPD does not continue to provide RA capacity to the RA market then the full amount of replacement capacity would have to be procured from alternative sources. However, by definition there is not sufficient capacity available on the grid to fulfill that need, because one of the qualifications for extending operations at DCPD is a determination that a sufficient amount of clean replacement capacity is not available at the time of the transition to extended operations. Therefore, if extended operations are approved, a determination must have been made that sufficient qualifying replacement capacity is not available.

The fact is that there are already too many LSEs of all types filing petitions for RA deferments in today's RA marketplace, which includes DCPD's substantial capacity contribution. RA requirements have already been set for 2024 (local RA requirements for 2024-2026) in the RA proceeding (D.23-06-029), anticipating the ongoing contribution of RA attributes from DCPD. The transition to extended operations at DCPD would begin in mid-2024, and if the RA capacity credits from one of the units are no longer available in the market, there would be a huge hole left. The foundational principle for extending operations at DCPD is the need to retain its RA capacity attributes. Withholding those attributes from the marketplace would be illogical and counterproductive. And the loss of those attributes during the latter half of 2024, for which RA requirements are already set, would be catastrophic for the RA market.

The RA program itself is currently in a state of transition from the current paradigm to a new paradigm based on a “slice of day” framework. The current system will continue to be in effect during 2024, which will act as a test year for the new system, with the new system scheduled for full implementation in 2025. The transition in and of itself will be difficult enough, without burdening it with the complication of having to readjust the market to operating with DCPD in, but its RA attributes out.

SB 846 provides for extending operations at DCPD by a period of less than five years in the event that a finding is made with operations already extended that sufficient clean energy alternatives are available to substitute for DCPD before the endpoint of the extension, which is 2029/2030. In our opinion the proper places for determining the ongoing need for the reliability attributes of DCPD are the RA proceeding for short-term need determination, and the IRP proceeding for mid- and long-term need determination.

The RA and IRP proceedings should both be directed by the Commission to include specific need determinations for the reliability attributes of DCPD in their planning deliberations, consistent with the provisions in SB 846, during the period of extended operations of DCPD. In addition, the IRP proceeding should be directed to report annually on the greenhouse-gas implications of the shutdown of the facility as a function of each of the five years of extended operations as part of its planning process, as it has been doing all along. This information would serve as a key indicator as to whether there are sufficient clean energy alternatives available to substitute for DCPD at any point prior to the end of the five-year operating extension period.

Conclusion

At the present time we know of no reason based on cost or sufficiency of new reliable carbon-free resources that would rule against moving forward with the extension of operations at DCPD, consistent with SB 846. We look forward to receiving the new information on these issues that is requested in SB 846 from several specified entities in a timely manner so that a final decision on whether to extend operations of DCPD can be made by the end of the current year.

In the event that DCPD operations are indeed extended consistent with SB 846, we believe that the reliability and environment attributes of the facility's output should be available for use in the marketplace, and allocated to the entities that pay for the extended operations in proportion to their contribution to the recoverable costs of operations during extended operations.

We urge the Commission to adopt our recommendations herein.

Dated September 18, 2023.

Respectfully Submitted,

A handwritten signature in blue ink that reads "Gregory Morris". The signature is written in a cursive style and is positioned above a horizontal line.

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